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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,274	06/01/2001	Motoki Kato	SONYJP 3.0-176	5254

530 7590 02/02/2004

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EXAMINER

SENGI, BEHROOZ M

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 02/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/872,274

Applicant(s)

KATO, MOTOKI

Examiner

Behrooz Senfi

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment (paper no. 7) filed Oct. 30, 2003 have been considered but are moot in view of the new ground(s) of rejection.

Applicant amends claims 1 – 18, and added claims 19 – 27.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang et al. (US 6,181,711) in view of Sugiyama et al. (5,889,921).

Regarding claims 1 and 7, Zhang '711 discloses, "information processing apparatus" (i.e. fig. 4), comprising; "a separating unit operable to separate an input multiplexed stream into a first stream comprised of first stream information and a second stream comprised of stream information other than the first stream information" (i.e. fig. 4, separating unit 400, video stream 420, audio stream 422, data stream 424), and "a setting unit operable to set a bit-rate of an output multiplexed stream" (fig. 4, units 514 – 518) and "controller operable to control coding condition for re-encoding the first stream" (i.e. fig. 4, controller 430, and encoder 410), and "a coding unit operable to re-encode the first stream under the coding condition" (i.e. fig. 4, encoder 410), and "a

multiplexing unit operable to multiplex the re-encoded first stream and the second stream to produce the output multiplexed stream" (i.e. fig. 4, multiplexer 412).

Zhang '711 fails to explicitly teach, "encoding the first stream on the basis of current bit-rate of the second stream". However, such features are well known and used as evidenced by Sugiyama '921 (i.e. figs. 4, and 6, col. 3, lines 65+, col. 8, lines 37 – 41). Therefore, taking the combined teaching of Zhang '711 and Sugiyama '921 as a whole, it would have been obvious to modify the Zhang '711 rate controller (512), as taught by Sugiyama '921 to control and maintain the overall size of the sum of the information amount of audio and video constant.

Regarding claims 2 and 8, combination of Zhang '711 and Sugiyama '921 teaches "control the coding conditions by determining a bit-rate difference between the bit-rate of the output multiplexed stream and the current bit-rate of the second stream, the bit rate difference being set as a maximum bit rate of the reencoded first stream, (i.e. fig. 6, of Sugiyama) teaches the same, obtaining the free amount by taking the difference amount between the audio and the maximum amount and set that value for the video.

Regarding claims 3, 9 and 15, combination of Zhang '711 and Sugiyama '921 teaches determining the bit rate difference for use in video encoding as discussed above, which meets the limitation "coding condition includes at least one of the bit-rate difference and a video frame size".

Regarding claims 4, 10 and 16, combination of Zhang '711 and Sugiyama '921 teaches, "coding conditions are also based on the first stream information" (i.e. fig. 4, 420, 430, and 404 – 408 of Zhang '711, and fig. 6 of Sugiyama).

Regarding claims 5 – 6, 11 – 12 and 17 - 18, combination of Zhang '711 and Sugiyama '921 teaches, "re-encoding the first stream at a fixed bit-rate" and "variable bit-rate in claim 6" (i.e. col. 2, lines 33 – 35 of Zhang '711).

Regarding claim 13, the system and method of bit allocation for video and audio and compression and transmission of Zhang '711 and Sugiyama '921 is computer implemented. Therefore having a program for executing and carrying out the process step would have been obvious.

Regarding claim 14, the limitations claimed are substantially similar to claims 2 and 8; therefore the grounds for rejecting claims 2 and 8 also apply here.

Regarding claims 19, 22 and 25, combination of Zhang '711 and Sugiyama '921 teaches, "first stream information includes video stream, and second stream information includes audio stream" (fig. 4, audio 422 and video 420 of Zhang '711 and fig. 7, unit 13 of Sugiyama '921).

Regarding claims 20, 23 and 26, combination of Zhang '711 and Sugiyama '921 teaches, "further separating unit" (fig. 7, units 13, 27 and 29 of Sugiyama '921).

Regarding claims 21, 24 and 27, the limitations claimed are substantially similar to claim 6; therefore the grounds for rejecting claim 6 also apply here.

Art Unit: 2613

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Behrooz Senfi** whose telephone number is **(703)305-0132**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Chris Kelley** can be reached on **(703)305-4856**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

Art Unit: 2613


(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relative to the status of the application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

B. S. B. J.

1/24/2004


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600